
CALL TO ORDER:

Mr. O’Leary called the meeting to order at 7:40 p.m. and stated the meeting was open to the public in compliance with Public Law 1975, Chapter 231, sections 4 & 13.

FLAG SALUTE

ROLL CALL: Members Present: Hughes, Fette, Luthman, Randazzo,
Corcoran, Didyk, Leuthe, Taylor, O’Leary.

Members Excused: Straub.

Also Present: Ursula Leo, Esq.
Nevitt Duveneck, PE
David Banisch, PP

EXECUTIVE SESSION:

A motion to go into executive session to discuss pending litigation with the minutes being released upon completion of the matter was made by Mr. Corcoran. It was seconded by Ms. Didyk and passed with a roll call vote. Ayes: Hughes, Fette, Luthman, Randazzo, Corcoran, Didyk, Leuthe, Taylor, O’Leary.

A motion to come out of executive session was made by Mr. Corcoran. It was seconded by Ms. Didyk and passed with a roll call vote. Ayes: Hughes, Fette, Luthman, Randazzo, Corcoran, Didyk, Leuthe, Taylor, O’Leary.

AUDIENCE:

Mr. O’Leary opened the meeting to the public. With nobody from the public coming forward, the meeting was closed to the public.

COMPLETENESS/ HEARINGS:

1.) Beaver Run Solar Facility, LLC SP10-11 B:25 L:2, 4.01

Mr. O’Leary noted the Board Secretary was listed on the plans as owning property within 200 feet of the subject property however the property is owned by her in-laws and she is not within 200 feet of the property and she is not a voting member of the Board.

There was a question about the notice of the application. Mr. Thomas Knutelsky was sworn in. Mr. Knutelsky said he worked off the list that was provided to him from the Tax Assessor. Mr. O’Leary noted the list was incorrect and that Mr. John Deutsch lived within 200 feet of the subject property however he was not noticed. He noted that Mr. Deutsch was present in the audience however asked as a courtesy could the applicant give formal notice to Mr. Deutsch. Mr. Kelly said they would send him a formal notice.

Mr. O’Leary noted the application will be for a use variance as well as site plan and wanted to know who the principles of the solar farm and property were so as to make sure there were no conflicts between the applicant and board members.

Mr. O’Leary read the definition of “essential services” and felt this was not conditional use. Mr. Kelly said he thought that was how the Board wanted to proceed. He said they will proceed as a use variance. There was discussion on whether the application should be bifurcated. Mr. Hughes and Mr. Corcoran stepped down from the Board until the decision was made regarding the bifurcation of the application since it could potentially involve a use variance. Mr. Kelly felt the application should be bifurcated with respect to the use variance and the site plan portion and requested the Board consider the variance testimony for the entire project. He said they would then proceed with the site plan for phase I and then return with a site plan for phase II. Mr. Duveneck felt phase I would be a minimum impact however phase II would be a substantial project. Mr. Fette felt the Board should hear the use variance for both phases at the same time. Mr. Banisch felt there was an order of the magnitude between the two phases and felt the negative criteria would be different for the two phases. He felt there may be a whole different set of issues with phase II. Mr. Kelly said they have no interest in a use variance for phase I only.

Mr. Duveneck expressed a concern about the time frame the applicant is under to complete the hearing process and start construction. Mr. Luthman felt it would be easier to meet the negative criteria for the 8 acre part of the project. He expressed a concern with the time constraints that the applicant is under by the Federal Government.

Mr. O'Leary asked Mr. Kelly to clarify the principles of Beaver Run Solar Farm, who were the principles of Shotmeyer Brothers, who if anyone is installing the project other than SUR Technology, and if there is any type of lease agreement the Board needs to be aware of. Mr. Charles Shotmeyer of 935 Scioto Drive, Franklin Lakes NJ was sworn in. He explained Beaver Run Solar Farms, LLC is an entity which is wholly owned by Shotmeyer Solar, LLC whose principles are Charles Shotmeyer Sr., Charles Shotmeyer, Jr., and Timothy Shotmeyer. The property owner is Shotmeyer Inc. whose sole principle is Charles Shotmeyer, Sr. Mr. Shotmeyer said there will be a transfer of property from Shotmeyer Inc. to Beaver Run Solar Farm.

Mr. Taylor disclosed that his wife is presently employed by PSE&G a competitor supplier of electricity however it will not affect his decision in hearing this application.

A motion to bifurcate the use variance portion of the application from the site plan portion for phase I and phase II was made by Mr. Randazzo. It was seconded by Mr. Fette and passed with a roll call vote. Ayes: Fette, Luthman, Randazzo, Didyk, Leuthe, Taylor, O'Leary.

Ms. Leo noted the Board will table the discussion on the application fee.

Mr. Duveneck went through his report dated October 16, 2010 and recommended the Board grant the requested temporary waivers and move forward and deem the application complete

A motion to accept Mr. Duveneck's recommendation and deem the variance portion only of the application complete was made by Mr. Randazzo. It was seconded by Mr. Leuthe and passed with a roll call vote. Ayes: Fette, Luthman, Randazzo, Didyk, Leuthe, Taylor, O'Leary.

Mr. Kelly entered and marked the exhibits as follows:

- A-2 sheet 1 of 7 of the submitted site plan
- A-3 sheet 2 of 7 of the submitted site plan
- A-4 sheet 3 of 7 which is a color version of the submitted site plan
- A-5 sheet 4 of 7 which is a color version of the submitted site plan
- A-6 sheet 5 of 7 of the submitted site plan
- A-7 sheet 6 of 7 of the submitted site plan
- A-8 200 foot scale of aerial of site with property line overlay from the tax map
- A-9 200 foot scale view of property with wetlands designated

Ms. Jessica Caldwell of Harold Pellow and Associates was sworn in and gave her qualifications which were accepted by the Board.

She went over her report with a date of October 10, 2010 and a revision date of October 12, 2010. Mr. Duveneck said he did not get a copy of the report. Board Members had not received the revised report as well. Ms. Caldwell went over her report and noted for the Board the revisions. She explained the site plan to the Board as well as exhibit A-8. Ms. Caldwell noted the property is a bowl shape. She said they are asking the Township for a vacation of Fox Hill Road that runs through the property. She said they will be removing the office space indicated in the existing house from the application and the house will remain as a residential structure. The tenant farmer will live in the house. She said the applicant will preserve the farming on the property. Ms. Caldwell explained exhibit A-4 and noted there will be no added buildings or added roadways. She said phase I is 2.5 acres of panels and indicated on the map the area that will be cleared to the Board. She said there will be no grading on the property. She said there will be an eight foot chain link fence around the facility. Trees will be cut however the stumps will be left to help maintain the stability. There is no disturbance to the land. The applicant is

proposing low growth grass and will not put gravel under the solar panels. Ms. Caldwell said phase I is typical of what is being proposed for phase II only on a smaller scale.

Ms. Caldwell said the public benefit is offsetting the need for fuel from foreign counties as well as generating power within the county. She said it would be generating energy in the local area and therefore lessening the need for power lines. This application will create a power facility that would lessen the need for coal or nuclear power. She testified that the stimulus money would be spent in the local community on local electricians, locals to install the panels, construction workers who may be out of work and locals to clear the lot for construction. She explained how the panels are installed and said it is a simple process and is very low impact. The Installer can oversee local construction workers who will do the work. She said they are estimating about 100 construction workers will be needed to construct the project. The maintenance is also very low impact. She said there are people who come out and inspect, replace a panel and then clean the panels. She said a panel may need to be replaced once every three months and cleaned twice a year. Ms. Caldwell said that the replacement panels can be driven to the site in a regular pick up truck.

Ms. Caldwell said there is almost no noise generated from the panels. There is no dust from the panels which is much less than a farming operation. There is very little glare from the panels because they will be absorbing the light not reflecting it. There may be some if looking down on the panels. She said they will be tilted to a southern exposure.

Ms. Caldwell said there is little to do to remove the use from the site. She said the panels can be removed and the concrete removed and the property will be back to its original state. The shade abatement area will have some low grade shrubs or grass with a minimal impact. She said there will be no daily activity on the site. There will be 4 employees who will not all be at the site at the same time. There will not be more than 10 trips to the site per day.

Panels will be delivered to the site in a Fed Ex box type truck. There will be no semi tractor trailers coming to the site. There will be a truck stored on site to replace the panels. Ms. Caldwell noted there was a comment about getting fire trucks to the site. She said the panels are not flammable. She said if there was a power surge the panels will shut down and turn back on automatically. She said if someone working on the system got shocked and then there would be emergency personnel coming to the site. The system can be shut down manually.

Ms. Caldwell said it is difficult to see most of the site from surrounding properties. It will not be seen from Beaver Run Road. There will be visibility from Lewisburg Road of the backs of the panels which will be buffered with trees. Phase I will not be visible at all since it is concealed within the property. She said if someone is above the site on the westerly side of the property it may be visible.

Ms. Caldwell said the setbacks are met with this project. The project will be setback from the wetlands as well. Mr. Luthman asked if the buffer includes the shade abatement area. Ms. Caldwell said the setback is 50 feet from the property lines. Mr. Luthman asked if the buffered areas include where the trees are cleared. Mr. Luthman felt Ms. Caldwell did not answer his question. Mr. Leuthe asked how many acres will be cleared for the 125 acres of panels. Ms. Caldwell could not answer this question. Mr. Kelly said there will be engineering testimony that may be able to answer the questions. Mr. Luthman felt the Board should not be discussing the use variance for the entire project because they do not have information on the phase II part of the project.

Ms. Didyk felt there will be a major impact to wildlife and that is not being addressed however the applicant is asking the Board to make a decision on the entire project. The Board felt they were not getting answers to their questions. Ms. Caldwell said she can provide some information to answer these concerns at the next hearing. She said the magnitude of the project does not matter because the use is the same. Mr. Luthman disagreed with this statement. She clarified that it does not matter if the project is commercial or net metered. Mr. Luthman said that unless the Board has the entire site plan they could not make a decision. Mr. Randazzo felt phase I and phase II should be

handled together. Mr. O'Leary felt there will be issues with glare, sound and inverters. He wanted to know where the invertors will be place in relation to property lines and where the panels will be located. Mr. Kelly felt this would be a good place to stop.

Ms. Leo clarified that the application was for preliminary and final site plan and a 'd' variance. Mr. Kelly agreed with this. Ms. Leo asked the applicant if they felt there were two principle uses on the property. Ms. Caldwell said they did not see it as two principle uses. Mr. O'Leary felt this is not an agricultural use according to the ordinance. Ms. Caldwell said they just wanted to preserve the right to resume farming if the solar is removed. Ms. Leo said the residential use is the second use not the agricultural. Mr. Luthman asked why the applicant was not using the current residential ordinance to which Ms. Caldwell said the web site is not current. Mr. O'Leary said the revisions are on the website.

Mr. O'Leary suggested the applicant look at the recycling ordinance since this will need to be addressed. He said the panels contain lead and cannot just be dumped in the landfill. He wanted testimony on exactly what was in the panels.

Mr. Luthman noted Fox Hill Road is not an abandoned road and asked if the panels will cover the road. He felt there was a lot of work to be done and expressed a concern that they will not meet the Federal deadlines. Ms. Caldwell said they were not asking for a vacation of the road for Phase I.

Mr. O'Leary opened the meeting to the public. Mr. Emil Conforth of 66 Fox Hill Road, Lafayette was sworn in. He said he was an adjacent property owner on the north side of the development. He said he will have a bird's eye view of the project. He wanted some assurance that there would not be an adverse affect on his property value. He expressed a concern about the glare that may come off of the panels and the aesthetics of it. He asked for technical information on the panels themselves. He felt the panels will be reflective. He suggested the Board get to look at a panel. He was concerned about the solar farm affecting his property value. He offered the Board Members and Applicants to walk his property to see what he will be looking at. Mr. Duveneck asked Mr. Conforth if he felt he would be able to see Phase I of the project to which he said yes. Ms. Caldwell disagreed.

With nobody else coming forth, the meeting was closed to the public.

A motion to carry the application to October 28, 2010 meeting was made by Mr. Luthman. It was seconded by Mr. Randazzo and passed with a roll call vote. Ayes: Fette, Luthman, Randazzo, Didyk, Leuthe, Taylor, O'Leary.

Mr. O'Leary asked that a copy of the aerial of the property to the Board. Mr. Luthman asked that the contours be added to sheet two of the site plan. Ms. Didyk asked for an environmental impact statement of the entire property.

Mr. Luthman left the meeting at 10:55p.m.

Mr. Banisch left the meeting also.

OLD BUSINESS:

1.) Master Plan Reexamination

The Board agreed to carry this matter to the February workshop meeting.

2.) Ordinance Revisions

The Board agreed to handle this after handling the Master Plan

NEW BUSINESS

RESOLUTIONS: None.

ORDINANCES:

No.	Name	Citation	Memorialized	Date to Clerk	TC Agenda	First Reading	Adopted	Sent to County/ Coded Systems
1	Clothing Bins	3-11	5/27/10	9-10-10				
2	Renewable Energy	13-6	8/20/10	9/10/10				

PENDING APPLICATIONS:

No.	Name	Application Number	Complete Date	Time to Act	Status
1	Barnside Inc.	VAR09-14	n/a	n/a	<i>Dismissed without prejudice. Needs to be deemed complete.</i>

TRC REPORT: None.

ZONING REPORT: None.

BILLS: None.

CORRESPONDENCE:

- 1.) From: Jennifer L. Moran
Re: Barnside – Asking to carry to the October 21, 2010 meeting date.
- 2.) From: Maureen Kaman, Tax Assessor
Re: Block 14, Lot 2.04 (part of 2.03) Pritchard and Oswald Properties
- 3.) From: Catherine Clink
Re: LOI for Block 22, Lot 13, - 91 Beaver Run Rd
- 4.) From: SC Soil Conservation District
Re: Block 21 Lot 29 & 32.01 – Certification Expiration
- 5.) Sussex County Green Infrastructure Seminar Series
- 6.) From: Edward Maske, Esq.
Re: D’Agostino Minor Subdivision

Ms. Didyk asked about the cargo container located on a property on Pelletown Road. She said it was her understanding they were permissible for agricultural use only. She said she saw an ATV in it. Mr. Fette said he will look into the matter.

ADJOURNMENT:

A motion to adjourn the meeting at 11:08 p.m. was made by Mr. Fette. It was seconded by Mr. Randazzo and passed with everyone saying aye.

Respectfully submitted,

Stephanie Pizzulo
Land Use Board Secretary